

REMARKS/ARGUMENTS

The present amendment is submitted in an earnest effort to advance the case to issue without delay.

Independent claims 1 and 2 have been amended by incorporating the limitation of dependent claim 26 with the latter being canceled. Since this is merely a consolidation of claims, the Examiner is requested to enter the amendment.

Claim 27 was rejected under 35 U.S.C. § 112, first paragraph for containing new matter. The Examiner considers that the ethoxylated cocomonoethanolamide with 3.5 EO and 4.5 EO groups have no support in the original specification. The Examiner is requested to reconsider.

Applicants direct the Examiner to Example 1. The Table at page 13 (lines 15 and 16) lists CM(EO)_{3.5}A and CM(EO)_{4.5}A. The aforementioned shorthand notations are well-known as representations of 3.5 EO and 4.5 EO ethoxylated cocomonoethanolamides. The Examiner is requested to withdraw the new matter rejection.

Claims 1-7, 13-17, 19-22 and 26-27 were rejected under 35 U.S.C. 103(a) as unpatentable over Reid et al. (US Patent 5,085,857) in view of Porter et al. (Handbook of Surfactants, pp. 145-146, 1991). Applicants traverse this rejection.

Reid et al. as admitted by the Examiner does not teach ethoxylated cocomonoethanolamide.

Porter et al. was relied upon for teaching ethoxylated alkanolamides.

Those skilled in the art recognize Porter et al. as a handbook teaching many, many different types of surfactants. Formulations are not provided, at least in the limited citation of the Examiner. From the Porter handbook, the skilled chemist can learn that among many different types of non-ionic surfactants, the ethoxylated cocomonoethanolamides are one particular small family of surface active materials. One even learns from this handbook that "similar to alkanolamides (the alkoxylated monoalkanolamides), i.e. thickening and foam stabilising but with improved dispersibility." Optimum foaming properties are said to be at 3-4 moles of EO. See page 146, item "2.Cosmetics".

The primary reference of Reid et al. discloses shampoos containing anionic surfactants, cationic polymers and water insoluble components of very small average particle size. Among the many nonionic surfactant possibilities are listed coco mono or diethanolamide. The mono- and diethanolamides are not ethoxylated. In fact, coconut monoethanolamide (non-ethoxylate) appears in Examples 4 and 5.

The question now arises as to whether a skilled chemist seeking to improve Reid et al. **for the purpose of achieving improved particle (e.g. silicone) deposition** would focus on replacement of coconut monoethanolamide. The answer would likely be no.

Coco monoethanolamide in the primary reference is not described as a particle deposition enhancing active material. It is merely identified as another type of emulsifier. Why would a skilled chemist in solving a particle deposition improvement problem be led to a solution that would replace the coconut monoethanolamide.

Hence if the skilled chemist were not seeking a replacement for the non-ethoxylated cocoethanolamide there would be no motivation to seek replacement with an ethoxylated version. The Examiner argues improved dispersibility or solubility for the ethoxylated variant of Porter et al. Yet the Examiner has not provided any connection between particle deposition improvement and properties of dispersibility or water solubility. There simply is no connection between the objective of the present invention, the non-ethoxylated coconut monoethanolamide of the primary reference, and the further downstream hookup with ethoxylated coconut monoethanolamide of the secondary reference.

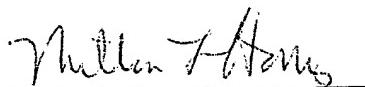
Applicants' comparative experiments were summarily dismissed by the Examiner. She rejects the showings apparently because comparisons were not made against the prior art. The Examiner is requested to reconsider.

Reid et al. in the embodiments of Examples 4 and 5 are the closest prior art. All the key actives of Example 4 and 5 are reproduced in formulas 1-10 at page 13. Applicants formulate with approximately equivalent concentrations of sodium lauryl ether sulphate, coconut monoethanolamide, Jaguar C13S and emulsified silicone (DC 1784).

In summary, anyone skilled in the art reviewing Reid et al. would not have expected that the presence of an ethoxylated cocomonoethanolamide would provide any benefit whatsoever to silicone deposition. Indeed, the opposite would have been expected. Addition of more foaming surfactant or co-surfactant would have been thought to increase wash-out of any lingering hair conditioning particles. Nothing in the reference suggest that surfactants or co-surfactants have any deposition enhancing properties. These materials are taught merely as lathering agents. The combination of art would not render the instant invention obvious.

In view of the foregoing amendment and comments, applicants request the Examiner to reconsider the rejection and now allow the claims.

Respectfully submitted,


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